



**Peggy
Livingston/ENF/R8/US
EPA/US**

08/21/2007 12:59 PM

To "Kerry Gee" <kcgee@unitedpark.com>
cc Kathryn Hernandez/EPR/R8/USEPA/US@EPA, "Kevin
Murray" <kmurray@chapman.com>,
Mark.Elmer@usdoj.gov, randall@chapman.com
bcc Sandy Fells/OCP/R8/USEPA/US@EPA
Subject RE: RD/RA CD - Richardson Flat

~~Attorney-Client Privileged
Attorney Work Product~~

My recommendation would be not to include an EPA contact person. Thanks for checking.

Peggy Livingston
Senior Enforcement Attorney
1595 Wynkoop Street
Denver, CO 80202-1129
303-312-6858 (phone)
303-312-7202 (fax)

Please note new street address and fax number.

"Kerry Gee" <kcgee@unitedpark.com>



"Kerry Gee"
**<kcgee@unitedpark.co
m>**

08/21/2007 12:56 PM

To Peggy Livingston/ENF/R8/USEPA/US@EPA, "Kevin
Murray" <kmurray@chapman.com>
cc Kathryn Hernandez/EPR/R8/USEPA/US@EPA,
<Mark.Elmer@usdoj.gov>, <randall@chapman.com>
Subject RE: RD/RA CD - Richardson Flat

I just spoke with the person I report to; he indicated that we definitely need to have a press release to head any potentially bad press off at the pass.

I understand what you are saying Peggy, the only think I would really want to know is whether or not I should give a contact person with the EPA. I don't know if it is proper for our release to even mention an EPA contact. It looks like I (and possibly others) will be the contact for United Park but I don't want to do anything wrong by having our release contain a sentence similar to: "Questions for the EPA can be directed to Peggy Livingston or Kathryn Hernandez with the EPA in Denver Colorado".

I can also remain silent on an EPA contact. I just want to do the right thing here.

Thanks

Kerry

-----Original Message-----

From: Livingston.Peggy@epamail.epa.gov
[mailto:Livingston.Peggy@epamail.epa.gov]
Sent: Tuesday, August 21, 2007 12:38 PM
To: 'Kevin Murray'
Cc: Hernandez.Kathryn@epamail.epa.gov; Mark.Elmer@usdoj.gov;
randall@chapman.com; Kerry Gee
Subject: RE: RD/RA CD - Richardson Flat

Kevin: Following up on my email from yesterday about the EPA policy not to share drafts of our press releases with parties we are suing, I don't know what the EPA position would be on outside parties sharing their draft press releases with us. I'm checking with our Office of Communication on that. I would say that even if UPCM shares its draft press release with EPA, I doubt that we could call it a joint UPCM-EPA press release, because that would not sound consistent with the EPA policy of not negotiating with outside parties any EPA decision on issuing or wording a press release.

At any rate, as soon as I know anything about when the CD is lodged with the court, I'll let you know.

Peggy Livingston
Senior Enforcement Attorney
1595 Wynkoop Street
Denver, CO 80202-1129
303-312-6858 (phone)
303-312-7202 (fax)

Please note new street address and fax number.

"Kerry Gee"
<kcgee@unitedpar
k.com>
To
"Kevin Murray"
08/21/2007 11:00 AM <kmurray@chapman.com>, Peggy
Livingston/ENF/R8/USEPA/US@EPA
cc
Kathryn
Hernandez/EPR/R8/USEPA/US@EPA,
<Mark.Elmer@usdoj.gov>,
<randall@chapman.com>
Subject
RE: RD/RA CD - Richardson Flat

We are going to be a little more proactive to inform the press on what is going on. I will circulate to Kathy, Peggy and Mark through Kevin to be sure that the form is proper for EPA.

The only reason would be to properly inform the press of what is happening. They run with it if we don't and we will get a flurry of phone calls and bad sound bites on the local radio station. They will interpret what is going on rather than have factual information.

Thanks

Kerry

-----Original Message-----

From: Kevin Murray [mailto:kmurray@chapman.com]

Sent: Tuesday, August 21, 2007 9:49 AM

To: Livingston.Peggy@epamail.epa.gov

Cc: Hernandez.Kathryn@epamail.epa.gov; Mark.Elmer@usdoj.gov; randall@chapman.com

Subject: Re: RD/RA CD - Richardson Flat

No, but Kerry will, I will ask him.

On Aug 21, 2007, at 9:37 AM, Livingston.Peggy@epamail.epa.gov wrote:

> Do you remember which newspapers or other media went crazy? And
> one of these days I hope to remember to take off attorney-client
> privileged when emailing you!

>
> Peggy Livingston
> Senior Enforcement Attorney
> 1595 Wynkoop Street
> Denver, CO 80202-1129
> 303-312-6858 (phone)
> 303-312-7202 (fax)

>
> Please note new street address and fax number.

>

>

>

>

>

>

>

Kevin Murray

<kmurray@chapman

> .com>

T

> o

>

Peggy

08/20/2007 05:05

Livingston/ENF/R8/USEPA/US@EPA

>

> PM

cc

>

Kathryn

>

Hernandez/EPR/R8/USEPA/US@EPA,

>

Mark.Elmer@usdoj.gov,

>

randall@chapman.com

>

> Subject

>

Re: RD/RA CD - Richardson Flat

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

>

> We can do the release, I just need to know before it happens. The
> past cost CD caused PR problems because the Press went crazy that UPK
> had been sued by EPA.
> On Aug 20, 2007, at 4:58 PM, Livingston.Peggy@epamail.epa.gov wrote:

>> ~~Attorney-Client Privilege~~
>> ~~Attorney Work Product~~

>> Thanks for your message. I'd assumed that the FR notice
>> Mark is
>> drafting would mention a public comment period. I don't know whether
>> there are plans for EPA or DOJ to do a press release. EPA has a
>> policy
>> of not sharing draft press releases with the parties we are suing. I
>> assume you were thinking of one that UPCM would do on its own.

>> Peggy Livingston
>> Senior Enforcement Attorney
>> 1595 Wynkoop Street
>> Denver, CO 80202-1129
>> 303-312-6858 (phone)
>> 303-312-7202 (fax)

>> Please note new street address and fax number.

>> Kevin Murray

>> <kmurray@chapman
>> .com>

>> T
>

>> o

>> Peggy
>> 08/20/2007 04:51 Livingston/ENF/R8/USEPA/US@EPA

>>

>> PM

>> cc
>> randall@chapman.com,
>> Mark.Elmer@usdoj.gov, Maureen
>> OReilly/ENF/R8/USEPA/US@EPA,
>> Kathryn
>> Hernandez/EPR/R8/USEPA/US@EPA

>>

>> Subject

>> Re: RD/RA CD - Richardson Flat

>>

>>

>>

>>

>>

>>

>>

>>

>>

>>

>> I apologize, I do not know what I was thinking . . . doing too many
>> things at once ignore my last comment. Please give me a heads up on
>> the date you intend to lodge . . . we need to do a press release or
>> we have issues with the papers reporting that UPK has been sued.
>> On Aug 20, 2007, at 4:11 PM, Livingston.Peggy@epamail.epa.gov wrote:

>>

>>>

>>> Kevin & Bret:

>>>

>>> Thank you for sending the CD with Kerry Gee's signature, and
>>> thank
>>> you for adding the missing page to Appendix F.

>>>

>>> Mark told me that he expects the CD will be lodged later this
>>> week. We have obtained the signatures of the EPA and DOJ
>>> representatives, and Mark is forwarding it the US Attorney's office
>>> for
>>> signature.

>>>

>>> In answer to your question about Paragraph 103, I agree that
>>> the
>>> effective date is the date entered by the court. The language was
>>> taken
>>> from par. 114 of the model RD/RA CD. I don't know why the model
>>> has the
>>> extra phrase "except as otherwise provided herein."

>>>

>>> Here is the version that is now being sent to the US
>>> Attorney's
>>> office for signature.(See attached file: rdracdaug20th2007.doc)

>>>

>>>

>>> Here is a comparison of the version that has been signed for
>>> EPA
>>> and DOJ and the version that I emailed you on June 8th. As you can
>>> see,
>>> the only changes are (1) corrections to spacing, (2) updating the
>>> table
>>> of contents, including adding a missing entry, Sec. XXVII, and (3)
>>> a new
>>> Acting Assistant AG. Also, in version circulated for signatures
>>> for the
>>> United States, the map that is Appendix B shows one line in red,
>>> which
>>> did not show up in color in the copy you emailed me. We'll send
>>> you a
>>> color copy.

>>>

>>> (See attached file: comparerdracdaug20tojune8.doc)

>>>

>>> Peggy Livingston
>>> Senior Enforcement Attorney
>>> 1595 Wynkoop Street
>>> Denver, CO 80202-1129
>>> 303-312-6858 (phone)
>>> 303-312-7202 (fax)

>>>

>>> Please note new street address and fax number.

>>> <rdracdaug20th2007.doc>

>>> <comparerdracdaug20tojune8.doc>

>>

>> Kevin R. Murray
>> Chapman and Cutler LLP
>> 312-917-7654
>> 801-320-6754
>> kmurray@chapman.com

>>

>>

>>

>>

>> CIRCULAR 230 DISCLOSURE:

>>

>> ANY STATEMENTS REGARDING TAX MATTERS MADE HEREIN, INCLUDING ANY
>> ATTACHMENTS, CANNOT BE RELIED UPON BY ANY PERSON TO AVOID TAX
>> PENALTIES
>> AND ARE NOT INTENDED TO BE USED OR REFERRED TO IN ANY MARKETING OR
>> PROMOTIONAL MATERIALS. TO THE EXTENT THIS COMMUNICATION CONTAINS A
>> TAX
>> STATEMENT OR TAX ADVICE, CHAPMAN AND CUTLER LLP DOES NOT AND WILL NOT
>> IMPOSE ANY LIMITATION ON DISCLOSURE OF THE TAX TREATMENT OR TAX

>> STRUCTURE OF ANY TRANSACTIONS TO WHICH SUCH TAX STATEMENT OR TAX
>> ADVICE
>> RELATES.

>>

>> Chapman and Cutler LLP is an Illinois limited liability partnership

>> that

>> has elected to be governed by the Illinois Uniform Partnership Act

>> (1997).

>>

>> NOTICE OF CONFIDENTIALITY: The information contained in this email

>> transmission is confidential information which may contain

>> information

>> that is legally privileged and exempt from disclosure under

>> applicable

>> law. The information is intended solely for the use of the

>> individual

>> or entity named above. If you are not the intended recipient, you

>> are

>> hereby notified that any disclosure, copying, distribution or

>> taking of

>> any action in reliance on the contents of this email transmission is

>> strictly prohibited. If you have received this email transmission in

>> error, please notify us immediately by telephone to arrange for the

>> return of the original transmission to us.

>>

>>

>>

>

> Kevin R. Murray

> Chapman and Cutler LLP

> 312-917-7654

> 801-320-6754

> kmurray@chapman.com

>

>

>

>

> Chapman and Cutler LLP is an Illinois limited liability partnership

> that

> has elected to be governed by the Illinois Uniform Partnership Act

> (1997).

>

> NOTICE OF CONFIDENTIALITY: The information contained in this email

> transmission is confidential information which may contain information

> that is legally privileged and exempt from disclosure under applicable

> law. The information is intended solely for the use of the individual

> or entity named above. If you are not the intended recipient, you are

> hereby notified that any disclosure, copying, distribution or

> taking of

> any action in reliance on the contents of this email transmission is

> strictly prohibited. If you have received this email transmission in

> error, please notify us immediately by telephone to arrange for the

> return of the original transmission to us.

>

>
>

Kevin R. Murray
Chapman and Cutler LLP
312-917-7654
801-320-6754
kmurray@chapman.com

Chapman and Cutler LLP is an Illinois limited liability partnership that has elected to be governed by the Illinois Uniform Partnership Act (1997).

NOTICE OF CONFIDENTIALITY: The information contained in this email transmission is confidential information which may contain information that is legally privileged and exempt from disclosure under applicable law. The information is intended solely for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this email transmission is strictly prohibited. If you have received this email transmission in error, please notify us immediately by telephone to arrange for the return of the original transmission to us.